

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

JAMES ALEXANDER SMITH,
Petitioner,

vs.

Case No.: 5:10cv85/LAC/EMT

UNITED STATES OF AMERICA,
Respondent.

_____ /

ORDER

This matter is before the court on Respondent’s Motion to Stay (Doc. 19). Respondent requests a 90-day stay of this matter to allow Petitioner an opportunity to file a request with the federal Bureau of Prisons (BOP) for *nunc pro tunc* designation of a non-federal facility for concurrent service of his federal and state sentences, and to provide the BOP an opportunity to review his sentence computation and consider his request (*id.*). Respondent states the BOP has not previously considered such designation because Petitioner has not requested such (*id.*). Petitioner opposes the motion for stay, contending the BOP has already had sufficient time to compute his sentence during the pendency of this habeas action; however, if the court grants the motion for stay, he will file a request for *nunc pro tunc* designation (Doc. 22).

As it appears undisputed that Petitioner has not previously filed a request for *nunc pro tunc* designation, and the BOP’s grant of such a request would render this habeas action moot, the undersigned concludes that granting a stay to permit the BOP to consider such a request is warranted. Therefore, Respondent’s motion will be granted.

Accordingly, it is **ORDERED**:

1. Respondent’s Motion to Stay (Doc. 19) is **GRANTED**.
2. Within **FOURTEEN (14) DAYS** from the date of docketing of this order, Petitioner shall submit a request for *nunc pro tunc* designation of a non-federal facility for concurrent service

of his federal and state sentences with the BOP at the address provided in Respondent's Motion to Stay (Doc. 19 at 3 n.1).

3. On or before **DECEMBER 27, 2010**, Respondent shall file a status report with the court notifying the court of the status of Petitioner's request.

DONE AND ORDERED this 27th day of September 2010.

/s/ Elizabeth M. Timothy _____

ELIZABETH M. TIMOTHY
UNITED STATES MAGISTRATE JUDGE